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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

U66.12-0005

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on Feb. 9, 2007Signature Austen ZuegeTyped or printed name Austen Zuege

Application Number

10/629,183

Filed

07/29/2003

First Named Inventor

Ronald Marsh

Art Unit

3661

Examiner

B. J. Broadhead

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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Registration number if acting under 37 CFR 1.34

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Feb. 9, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor	: Ronald Marsh	
Appln. No.	: 10/629,183	
Filed	: July 29, 2003	Group Art Unit: 3661
Title	: WEATHER INFORMATION NETWORK ENABLED MOBLE SYSTEM (WINEMS)	Examiner: Brian J. Broadhead
Docket No.	: U66.12-0005	

PRE-APPEAL BRIEF REQUEST FOR REVIEW (CONT. SHEETS)

Mail Stop AF
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This request for review follows the Advisory Action mailed on January 16, 2007. Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request, and the following remarks are presented to explain the basis for this request. Enclosed with this request is a notice of appeal and the appropriate fees.

In the final Office Action mailed on October 20, 2006, claims 12, 16, 19, 42, 43 and 47-48 were rejected. Claims 19, 43 and 48 were rejected under 35 U.S.C. §102(e) as being anticipated by Videtich (U.S. Pat. App. Pub. No. 2004/0010366). Claims 12, 42 and 47 were rejected under 35 U.S.C. §103(a) as being obvious over Videtich. Claim 16 was rejected under 35 U.S.C. §103(a) as being obvious over Videtich in view of Koeller (U.S. Pat. No. 6,297,766).

Claim Rejections - 35 U.S.C. § 102

Claims 19, 43 and 48 were rejected under §102(e) as being anticipated by Videtich. In order to anticipate a claim, the identical invention must be shown in a reference in as complete detail as is contained in the claim. M.P.E.P. 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d (BNA) 1913, 1920 (Fed. Cir. 1989). Likewise, in order to reject a claim under §102, each and every element as set forth in the claim must be found, either expressly or inherently

described, in the prior art. See M.P.E.P. 2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d (BNA) 1051, 1053 (Fed. Cir. 1987).

Amended independent claim 19 relates to a portable alert system for receiving emergency event data that includes a radio receiver for receiving emergency event data, a global positioning system (GPS) receiver for determining a location of the portable alert system, a cellular phone system for receiving digital data, a computer processor disposed within the portable alert system, and control software utilized by the computer processor for processing the emergency event data and an input from the global positioning system to provide an output to a display indicating a position of the portable alert system and a position of an emergency. According to amended independent claim 19, the computer processor must process the input from the global positioning system receiver to automatically program the radio receiver to receive only an emergency data broadcast data signal associated with the location of the portable alert system, and utilize the control software to simultaneously process the emergency event data from the radio receiver and the digital data from the cellular phone system. The structure and language of amended independent claim 19 draws a distinction between digital data (used by the cell phone system) and emergency event data (from the radio receiver) and input "data" used by the global positioning system receiver.

Videtich discloses a method and system for delivering location-dependent traffic information. Videtich discloses a GPS system (126) for determining vehicle (110) position, a telematics unit (120) located in the vehicle (110), a satellite radio broadcasting system (180) and receiver (140), a wireless carrier system (190) such as a mobile telephone system, and a terrestrial radio transmitter repeater (170). (Videtich, ¶¶18, 24, 27; FIG. 1).¹ Videtich further discloses a telematics service call center (150). (Videtich, ¶¶18, 22-25; FIG. 1). Videtich discloses collecting traffic data at the telematics service call center (150) and then sending a single, compiled traffic data signal to the telematics unit (120) in the vehicle (110) via the satellite radio system (180). (Videtich, ¶¶8, 10, 18, 23; FIG. 1). The terrestrial radio transmitter repeaters (170) can relay the signal from the

¹In paragraph 27, Videtich discusses a "wireless carrier system 140". It is believed that this is a typographical error and that paragraph 27 properly should refer to wireless carrier system 190, because reference number 190 had previously been used to identify that feature and reference number 140 was used to describe satellite radio receiver in paragraph 25 and FIG. 1.

satellite radio system (180) to the vehicle (110), but ultimately represents the same data signal from the telematics service call center (150) as from the satellite radio system (180). (Videtich, ¶¶24, 31).

The Videtich system discloses receiving data signals from alternative sources, such as satellite or terrestrial radio sources, but does not disclose simultaneously receiving emergency event data from two or more sources. (Videtich, ¶¶21, 29-32; FIGS. 1 and 2). In that respect, the wireless carrier or cellular phone system (190) of Videtich can be used as an independent communications channel to provide two-way or "duplex" between the mobile vehicle (110) and the telematics services call center (150) in order to manually request new traffic information. (Videtich, ¶¶27, 39). However, that procedure does not involve simultaneous process of different data signals but instead is a procedure that triggers the transmission of a single selected data signal.

Videtich does not show, teach or disclose a computer processor that utilizes control software to *simultaneously* process emergency event data from the radio receiver and digital data from a cellular phone system to provide an output to a display indicating a position of the portable alert system and a position of an emergency, as required by independent claim 19. Instead, Videtich discloses contacting the telematics service call center (150) using a cellular phone system (134, 190, 220) and in response to that cellular alert, then transmits traffic data to the mobile vehicle (110) via the satellite radio system (180). In other words, the cellular phone system of Videtich does not provide digital data a cellular phone system that is simultaneously processed with emergency event data from a radio receiver. To the extent that any data is processed simultaneously by Videtich, that processing would occur at the telematics services call center (150) rather than in the telematics unit (140) in the mobile vehicle (110). The final Office Action advances a position not supported by the cited reference. (10/20/2006 Office Action, p. 4). Videtich lacks any disclosure or suggestion to utilize different data sources *simultaneously*. When mentioning alternative types of transmission means for sending the single data signal, Videtich uses the word "or" to indicate that those are alternative transmission mediums for a single data signal rather than different media used to simultaneously send different data signals. (See Videtich, ¶21).

In addition, Videtich does not disclose providing an output to a display indicating a position of the portable alert system and a position of an emergency as required by independent claim

19. Indeed, Videtich does not disclose identifying the location of an emergency at all, much less indicating such a location on a display along with a location of the portable alert system. Videtich mentions text or flashing light displays, but fails to disclose with the specificity of the present claims the identification of both a position of the portable alert system and a position of an emergency. (Videtich, ¶¶21, 38). The Advisory Action cites to discussions in Videtich at paragraphs 4 and 5 that discuss prior art in a manner distinguished from the invention of Videtich, but these provisions do not discuss *displaying* information and also are not aspects included in the invention of Videtich. Moreover, contrary to the Advisory Action, the claim language clearly requires the display of both emergency and portable alert system locations. Therefore, Videtich does not show, teach or disclose all the limitations of independent claim 19, and the rejection under §102(e) should be withdrawn.

Claims 43 and 48 depend from amended independent claim 19, and include all of the limitations of that base claim. Dependent claims 43 and 48 are likewise allowable over the cited art for the reasons stated above, and the rejections under §102(e) should be withdrawn.

Claim Rejections - 35 U.S.C. §103(a)

Claims 12, 42 and 47 were rejected under §103(a) as being obvious over Videtich in view of Official Notice taken regarding satellite phones. The relevant disclosure of Videtich is discussed above. Official Notice was taken in the 10/20/06 Office Action "that it is well known in the art to substitute a satellite phone with a cellular phone. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a satellite phone in stead of a cellular phone connection because satellite phones have a larger service area, which would be beneficial in traveling in remote areas."

Amended independent claim 12 is similar to amended independent claim 19, but uses a satellite receiver rather than a cellular phone system to receive digital data. As discussed above, Videtich does not teach or suggest simultaneous processing of different data sources. Furthermore, the Official Notice does not remedy the fact that Videtich also fails to teach or disclose providing an output to a display indicating both a position of the portable alert system and a position of an emergency, as discussed above. Thus, Videtich in view of the Official Notice fails to teach or suggest each and every limitation of independent claim 12. Claims 42 and 47 depend from amended


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independent claim 12, and include all of the limitations of that base claim. For the reasons stated above, dependent claims 42 and 47 are likewise allowable over the cited art, and the rejections under §103(a) should be withdrawn.

Claim 16 was rejected under §103(a) as being obvious over Videtich in view of Koeller. Claim 16 depends from independent claim 12, discussed above, and further requires that the digital data received by the satellite receiver comprises digital radar data. As discussed above, Videtich fails to teach or disclose providing an output to a display indicating a position of the portable alert system and a position of an emergency. Indeed, Videtich does not disclose any display of particular data, much less the specific type of data required to be displayed by dependent claim 16. Moreover, Koeller does not teach or suggest each and every limitation of dependent claim 16 either alone or in conjunction with Videtich. As required by dependent claim 16, a computer processor located within the portable alert system must utilize control software to simultaneously process emergency event data from a radio receiver and digital data from a satellite receiver. In contrast, Koeller discloses only the use of a single communications link (between communication links 204 and 250). Koeller discloses alternative means for enabling the single communication link, but fails to disclose *simultaneous* processing of emergency event data from a radio receiver and digital radar data from a satellite receiver within the portable device (100). Indeed, Koeller fails to disclose simultaneous processing of different types of data signals within the portable device (100) at all. Thus, Videtich in view of Koeller fail to teach or suggest each and every limitation of dependent claim 16, and the rejection under §103(a) should be withdrawn.

Based upon the foregoing and the evidence presented in the record, all of the pending claims are in condition for allowance. Reconsideration and notice to that effect are respectfully requested.

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